

STATE OF NEW MEXICO - TAXATION AND REVENUE DEPARTMENT
APPLICATION FOR FILM PRODUCTION TAX CREDIT

The purpose of this form. This form may be used by an approved film production company to apply for a film production tax credit. To receive approval, contact the New Mexico Film Division of the Economic Development Department at (505) 476-5600 or (800) 545-9871. See the instructions for recent changes to the Film Production Tax Credit Act. Submit this completed application with required documentation to the Taxation and Revenue Department, one application for each approved film project. The Department will notify you of the approved amount of credit. This refundable credit can be applied against personal or corporate income tax due the State of New Mexico. Use form RPD-41228, *Film Production Tax Credit Claim Form*, to claim the credit.

Mail to: New Mexico Taxation and Revenue Department, Attention Jerry Montoya, P.O. Box 630, Santa Fe, New Mexico, 87504-0630.
For assistance call (505)827-0929.

Name of eligible film production company		Taxpayer identification number (SSN or FEIN)	
Mailing address		City, state and zip code	
Name of contact person	Telephone number	E-mail address	

A. Total qualifying direct production expenditures \$ _____

B. Total qualifying postproduction expenditures \$ _____

C. Is the film production company receiving a credit pursuant to the federal new markets tax credit program for expenditures attributable to this production? Circle one: Yes No

D. Film production tax credit claimed. Multiply the sum of lines A and B by 25%, or by 20% if line C is marked "yes". Enter the result here. \$ _____

E. Enter the *Project Title* as indicated on the New Mexico Film Office *Film Production Company Registration Form*. _____

Please ensure all required supporting documentation is attached to your application.

I certify that:

Certifications

- ☐ the total direct production and postproduction expenditures included in line A above:
- include only expenditures made in New Mexico directly attributable to the approved production;
 - include only transactions which are subject to taxation by the State of New Mexico;
 - *exclude* expenditures for which another taxpayer claims the film production tax credit; and
 - *exclude* expenditures for which the film production company delivered a nontaxable transaction certificate pursuant to 7-9-86 NMSA 1978.
- ☐ **For long-form narrative films only**, I certify that the film contains an acknowledgment that the production was filmed in New Mexico.

I declare I have examined this application, including accompanying invoices, schedules and/or statements, and to the best of my knowledge and belief this application is true, correct and complete.

Authorized Signature

Title

Date

FOR DEPARTMENT USE ONLY

This application for Film Production Tax Credit was reviewed by the Taxation and Revenue Department and was

- ☐ Approved in the amount of \$ _____
- ☐ Adjusted and approved in the amount of \$ _____
- ☐ Disapproved

Reason for adjustment/disapproval _____

Signature of Director or Delegate

Date

Approval No.

Application for Film Production Tax Credit Instructions

ABOUT THIS CREDIT: Beginning January 1, 2002, the film production tax credit, Section 7-2F-1 NMSA 1978, provides a tax credit for an eligible film production company. Effective January 1, 2006, the amount of the credit is equal to 25% of direct production and direct postproduction expenditures made in New Mexico that are subject to taxation by the State of New Mexico and directly attributable to the production of a film or commercial audiovisual product. The production must be in New Mexico for direct production expenditures. A 20% credit rate applies for expenditures for which the taxpayer receives a new markets tax credit from the federal government. *Important: expenditures must be directly attributable to film production in New Mexico and subject to taxation by the State of New Mexico.* The film production tax credit shall **not** be claimed for expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

Effective July 1, 2007, the 25% rate of credit becomes permanent; the definitions of *direct production expenditure*, *postproduction expenditure* and *film production company* were modified (see this page); direct production expenditures and postproduction expenditures exclude expenditures for which another taxpayer claims the film production tax credit, and there is a limit of \$5 million per year for credit claimed on services of performing artists in connection with one production.

To be eligible for the film production tax credit a film production company must first be approved by the New Mexico Film Division of the Economic Development Department. After approval, the company may apply for the credit by submitting a completed form RPD-41229, *Application for Film Production Tax Credit*, to the Taxation and Revenue Department. The Department may approve the credit and issue a document granting it. Please allow four to six weeks to process the application.

To claim the approved film production tax credit the film production company may apply all or a portion of the film production tax credit against personal income tax liability or corporate income tax liability. If the amount of the credit exceeds the tax liability for the tax year in which the credit is being claimed, the excess shall be refunded. To claim approved credits against tax liabilities, complete Form RPD-41228, *Film Production Tax Credit Claim Form*, and submit the form with the return for which the taxpayer wishes to claim the credit.

"Film" means a single medium or multimedia program, excluding advertising messages other than national or regional advertising messages intended for exhibition, that:

- is fixed on film, digital medium, videotape, computer disc, laser disc or other similar delivery medium;

- can be viewed or reproduced;
- is not intended to and does not include sexually oriented material harmful to minors or does not otherwise violate a provision of Chapter 30, Article 37 NMSA 1978, and
- is intended for reasonable commercial exploitation for the delivery medium used.

"Direct production expenditure" means a transaction subject to taxation in New Mexico, including:

- (1) payment of wages, fringe benefits or fees for talent, management or labor to a New Mexico resident for purposes of the Income Tax Act;
- (2) payment to personal services corporations for the services of a performing artist, if (a) the personal services corporation pays gross receipts tax in New Mexico on those payments; and (b) the performing artist receiving payments pays New Mexico income tax (See *Limit For Performing Artists* below); and
- (3) any of the following provided by a vendor:
 - (a) the story and scenario to be used for a film;
 - (b) set construction and operations, wardrobe, accessories and related services;
 - (c) photography, sound synchronization, lighting and related services;
 - (d) editing and related services;
 - (e) rental of facilities and equipment;
 - (f) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation (New Mexico -based chartered aircraft for in-state transportation directly attributable to the production *shall be* considered a direct production expenditure);
 - (g) food or lodging;
 - (h) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production;
 - (i) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, and
 - (j) other direct costs of producing a film in accordance with generally accepted entertainment industry practice.

Limit For Performing Artists: The film production tax credit is limited to \$5,000,000 for the direct production expenses attributable to services rendered by all performing artists in a production.

Postproduction expenditure means an expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; but not including advertising, marketing, distribution or expense payments.

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Film production company means a person that produces one or more films or any part of a film.

Direct production and postproduction expenditures exclude:

- (a) expenditures for which the film production company has delivered a nontaxable transaction certificate (NTTC) Type 16 pursuant to 7-9-86 NMSA 1978. Type 16 NTTCs may be executed by a qualified production company to purchase property, lease property or purchase services that qualify as production costs;
- (b) expenditures that are not subject to tax by New Mexico, and
- (c) expenditures for which another taxpayer claims the film production tax credit.

Wages, fringe benefits or fees for talent, management and labor are eligible for the film production tax credit only when paid to individuals who are New Mexico residents during the time that they work on the project. Form RPD-41271, *Declaration of Residency*, must be completed by the New Mexico resident and retained in the records of the film production company.

FORM INSTRUCTIONS:

Name/address block Complete all information requested. If the contact for the permanent records is different, enter the contact information at the bottom of this page and submit the form along with the application to New Mexico Taxation and Revenue Department.

Line A Enter the total qualifying direct production expenditures made in New Mexico directly attributable to the production in New Mexico of the commercial film or audiovisual product for which this credit is claimed.

Line B Enter the total qualifying postproduction expenditures made in New Mexico directly attributable to the production in

New Mexico of the commercial film or audiovisual product for which this credit is claimed.

Line C Is the film production company receiving a credit pursuant to the federal new markets tax credit program for expenditures attributable to this production? Circle the answer.

Line D Multiply the sum of lines A and B by 25%, or by 20% if the answer to line C is "yes". This is the amount of film production tax credit to be claimed.

Line E Enter the Project Title as indicated on the New Mexico Film Office Film Production Company Registration Form.

Certifications Certify that the statements set out under *Certifications* are true and correct by placing a check mark in the box next to each statement that applies.

Sign the application, enter your title and the date of signature.

Mail to: Taxation and Revenue Department, Attention Jerry Montoya, PO Box 630, Santa Fe, NM 87504-0630

Required Supporting Documentation Submit the following documentation to support your claim:

- A copy of the approval from the New Mexico Film Office.
- A copy of the final cost-accounting summary for the project with a breakout of the New Mexico costs for each line item.
- The name, address, social security number and amount paid to every resident of New Mexico for whom the company wishes to claim credit for wages and salaries.
- If the company has obtained Type 16 NTTCs from the Taxation and Revenue Department, a listing of every person to whom the company has delivered an NTTC. The list must contain the name, address and New Mexico CRS identification number, if applicable, and the dollar amount of purchases.

Contact for permanent records:

Enter the contact information for the permanent records if different than the contact information on the front page of the application:

Name of contact person	
Mailing address	
Telephone number	E-mail address